

CHAPTER 33-06-05.1 GENERAL PROVISIONS

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33-06-05.1-01. Purpose. Chapters 33-06-05.1 through 33-06-05.6 establish guidelines for adoption of policies and procedures for the governing body of an institution to follow in the event the institution obtains knowledge that an employee, independent contractor, or student contracts a significant contagious disease. The rules should be interpreted to assure consideration of the rights of all involved under 29 United States Code section 794, section 504 Rehabilitation Act of 1973 and North Dakota Century Code chapter 14-02.4. It is recognized that each institution may have individual situations to address; therefore, each institution may adopt policies to fit their individual requirements which are not inconsistent with chapters 33-06-05.1 through 33-06-05.6. In adopting policies to implement chapters 33-06-05.1 through 33-06-05.6, an institution may be guided by "Recommended Policies for School Boards and Boards of Health Regarding School-age Children and School Employees" if the policies contained therein are not inconsistent with chapters 33-06-05.1 through 33-06-05.6.

History: Effective January 1, 1991.

General Authority: NDCC 23-07-16.1

Law Implemented: NDCC 23-01-03, 23-07-16, 23-07-16.1

33-06-05.1-02. Definitions. When used in chapters 33-06-05.1 through 33-06-05.6, unless the context or subject matter otherwise requires:

1. "Affected person", "affected individual", or "affected student" means an individual who has been diagnosed by a physician as having contracted a significant contagious disease.
2. "Decisionmaker" is the affected person's personal physician. However, whenever an affected student is also disabled as defined under the Education For All Handicapped Children Act, 20 U.S.C. 1401(a)(1) or North Dakota Century Code chapter 15-59, the decisionmaker is the multidisciplinary team provided for under subsection 4 of North Dakota Century Code section 15-34.1-03.
3. "Employee" means all persons employed by the institution including faculty, maintenance, and administrative personnel.
4. "Governing body" means a board of directors, a school board, or other entity vested with authority to make binding decisions on behalf of an institution.

5. "Independent contractor" means any person or entity who is free of control or direction over performance of the service provided both under the contract and in fact, who renders service outside the ordinary course of business or outside of the place of business of the contractor and who is engaged in an independently established trade, organization, profession, or business.
6. "Individualized education program" denotes a specialized education plan created in compliance with 20 U.S.C. 1401(a)(19).
7. "Institution" includes all public kindergartens, elementary, junior high, and high schools operating within all school districts in North Dakota.
8. "Reasonable accommodations" is as defined by subsection 16 of North Dakota Century Code section 14-02.4-02 or U.S.C. 794.
9. "Significant contagious disease" includes cytomegalovirus (CMV), hepatitis B (HBV) and human immunodeficiency (HIV) infection. The local board of health or the state health officer may determine that other diseases are significant contagious diseases.
10. "Special provisions" are individually tailored education decisions designed to meet the needs of students requiring unique accommodations to ensure an educational opportunity. Special provisions are directed to students not covered by an individualized education program.
11. "Universal precautions" means protecting one's self from exposure to blood or body fluids, through the use of latex gloves, masks, or eye goggles, cleaning blood and body fluid spills with soap and water and then disinfecting and incineration or decontaminating infective waste before disposing in a sanitary landfill.

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General Authority: NDCC 23-07-16.1

Law Implemented: NDCC 14-02.4, 23-01-03, 23-07-16, 23-07-16.1

33-06-05.1-03. Adoption of policy by governing body. In accordance with the guidelines set out in chapters 33-06-05.1 through 33-06-05.6, the governing body of each institution shall adopt policies:

1. For education of student, employees, and independent contractors concerning significant contagious disease;
2. To protect the identity of affected individuals;
3. To protect the health of students, employees, independent contractors, and the public;

4. To provide to the public only that information which is essential for protection of public health;
5. To provide for attendance, employment, or contracts regarding affected individuals and to establish procedures for the development of special provisions and reasonable accommodations;
6. To protect affected individuals from harassment and discrimination within the institutional setting; and
7. To receive information concerning the status of students, employees, and independent contractors from their physicians.

History: Effective January 1, 1991.

General Authority: NDCC 23-07-16.1

Law Implemented: NDCC 23-01-03, 23-07-16, 23-07-16.1